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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/073,821	02/11/2002	Philip Molfese	GT10001USA	6367
49353	7590	03/28/2006	EXAMINER	
<b>DOUGLAS A. BOEHM</b> 826 SUNNYSIDE ROAD ROSELLE, IL 60172		JIANG, CHEN WEN		
		ART UNIT		PAPER NUMBER
		3744		

DATE MAILED: 03/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/073,821	MOLFESE, PHILIP	
	Examiner Chen-Wen Jiang	Art Unit 3744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 28 December 2004.
- 2a) This action is FINAL.                            2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-18,20 and 22-100 is/are pending in the application.
- 4a) Of the above claim(s) 1-14,27-55,77-84 and 91-100 is/are withdrawn from consideration.
- 5) Claim(s) 15-18,20 and 22-26 is/are allowed.
- 6) Claim(s) 56-62,66-76,85,86,88 and 89 is/are rejected.
- 7) Claim(s) 63-65,87 and 90 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 28 December 2004 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>20030619,20041228</u>	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Newly submitted claims 73-84 and 91-100 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Claims 77-84 and 91-100 include the limitations those are distinct from and not presented in the previous elected claims 15-26.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 77-84 and 91-100 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 56-62,66-70 and 72-76 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Christensen (U.S. Patent Number 2,028,825).

Christensen discloses a service container as shown in Figs.1-5. In regard to claims 56 and 72-75, the container comprises a block, interior cavity 10, inner space 8, housing 4,4a, rotating means 23 and the cooling liquid in interior cavity is not in direct contact with the container in the inner space 8. The inner casing and the fins are built up from a series of sheet metal strips.

In regard to claims 67-70, the applicant should note that the selection of known material based upon its suitability for the intended use is a design consideration within the skill of the art. In re Leshin, 227 F.2d 197, 125 USPQ 416 (CCPA 1960).

In regard to claims 57-61,66 and 76, the applicant should also note that a change in the shape of a prior art device is a design consideration within the skill of the art. In re Dailey, 357 F.2d 669, 149 USPQ 47 (CCPA 1966). In regard to claim 62, the inner space can have container having different shapes as long as the space is able to have the container stored.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 71 is rejected under 35 U.S.C. 103(a) as being unpatentable over Christensen (U.S. Patent Number 2,028,825) in view of Smith (U.S. Patent Number 4,549,409) or Bryant (U.S. Patent Number 4,164,851).

Christensen discloses the invention substantially as claimed. However, Christensen does not disclose motor driven mechanism. Smith and Bryant disclose electric motor in the same field of endeavor for the purpose of rotating container. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the apparatus of Christensen with a electric motor in view of Smith or Bryant so as to rotate container.

6. Claims 85,86,88 and 89 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Christensen (U.S. Patent Number 2,028,825) in view of Smith (U.S. Patent Number 4,549,409) or Bryant (U.S. Patent Number 4,164,851).

Christensen discloses a service container as shown in Figs.1-5. In regard to claims 85 and 86,88 and 89, the container comprises a receiver, inner space 10 to receive container 9, interior cavity 8 to receive cooling substance, housing 4,4a, rotating means 23 and the cooling liquid in interior cavity is not in direct contact with the container in the inner space 8. The inner casing and the fins are built up from a series of sheet metal strips. Christensen discloses the invention substantially as claimed. However, Christensen does not disclose motor driven mechanism. Smith and Bryant disclose electric motor in the same field of endeavor for the purpose of rotating container. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the apparatus of Christensen with an electric motor in view of Smith or Bryant so as to rotate container.

*Allowable Subject Matter*

7. Claims 15-18,20 and 22-26 are allowed.

8. Claims 63-65,87 and 90 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Conclusion*

9. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chen-Wen Jiang whose telephone number is (571) 272-4809. The examiner can normally be reached on Monday-Thursday from 8:00 to 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on (571) 272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Chen-Wen Jiang  
Primary Examiner

